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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,960	02/17/2004	Michael E. LaSalle	STG-001	9118

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EXAMINER	
HARMON, CHRISTOPHER R	

ART UNIT	PAPER NUMBER
3721	

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/779,960	LASALLE, MICHAEL E.	
	Examiner	Art Unit	
	Christopher R. Harmon	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) *1,2 and 30-35* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *3-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *30-35* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I. Claims 1-2, drawn to an improvement in a lift truck, classified in class 414, subclass 14.

   II. Claims 3-29, drawn to a material handling system, classified in class 53, subclass 443.

   III. Claims 30-35, drawn to an apparatus for handling a group of elongate bags, classified in class 414.

2. Claims 1-2 were previously unelected and withdrawn.

3. Newly submitted claims 30-35 are directed to an invention that is independent or distinct from the elected invention originally claimed for the following reasons: the two inventions are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the means for lifting and transporting groups of the combination is for a separate function (ie. forming a multi-row stack). Furthermore, since both claims 17 and 30 are in "means plus function" format while reciting different

functions the two groups are distinct. The subcombination has separate utility such as transporting or unloading a formed stack.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 30-35 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "said lifting and transporting applying opposed" (claim 3, line 7) is confusing and indefinite.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 3-4, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Pagdin (US 2,920,916).

Pagdin disclose a method of handling material comprising automatically arranging bags into groups by a conveyor 10 system to an accumulator station 12; lifting and transporting groups into a cross stacked configuration via suction/stacker head 19; see figures 1 and 3, column 2, line 21. Bags of material are inherently packaged at an upstream point in the process. Suction head 19 automatically lifts and transports arranged groups of elongate bags by applying opposing clamping forces by outer portion of member 50 along outer sides of bags while preventing bag slippage by inner portion of member 50; see column 3, lines 45+. The multi-row stack is thereby palletized and lifted for transport to a customer.

Regarding claim 12, during the lifting operation member 50 (connected to stacker head 19) comprises at least one inner portion/support structure that is disposed between bags and outer (lower) portions/fingers that apply opposing clamping forces.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 5-9, 13-14, 17-23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pagdin (US 2,920,916) in view of Applicants Admitted Prior Art (AAPA).

Pagdin (see above) do not directly disclose thermal insulation, polymer bags about 38/21/8.5 inches, glass fiber, however applicant admits these items to be well known in the prior art; see page 7, paragraph 2. It would have been obvious to one of ordinary skill in the art to use these dimensioned products in the method taught by Pagdin for transport/shipping.

Regarding claims 7 and 20, the method of packaging cellulose material into elongated bags is well known in the art and would have been obvious to one skilled in the art for the known benefits of the modification.

Regarding claims 17 and its dependents, the claim is recognized as invoking 35 USC 112(6), however the "means for applying opposed clamping forces" is not determined to include the chain, rope, etc. as this would be an additional means for providing an additional function (ie. preventing elongate bags from sliding past one another). Pagdin does not directly disclose the means for packaging material, however the Applicant admits that this means is old and well known in the art, see page 7, paragraph 2. Pagdin discloses means for arranging elongate bags into groups is a plurality of rollers and diverters; see figure 1. The means for automatically lifting and transporting groups and means for applying opposed clamping forces of Pagdin is determined to be a structural equivalent, see above.

10. Claims 13-16 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pagdin (US 2,920,916) in view AAPA and further view of Milholen et al. (US 3,992,049).

Pagdin does not directly disclose the automatic lifting device comprising at least one support structure disposed between bags however Milholen et al. disclose a lifting device 10 with central bar support structures 106, 108, 110, and 112 which are disposed between layered products for support in lifting/transport; see figure 3. Central bar supports enter into/out of slots in tray 220 during the operation which is considered part of a conveyor belt system; see figure 2.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the teachings of Milholen et al. in the invention to Pagdin for keeping separate the bags during their transport.

Regarding claims 13-14 and 26-27, it would have been obvious to one of ordinary skill in the art to include chain, rope, or wire in the support structure for operably separating the products.

11. Claims 11 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pagdin (US 2,920,916), and further in view of Kintgen et al. (US 4,271,755).

The cross stacking pattern is not specifically disclosed in Yougarlite et al. however Kintgen et al. describe a similar method including cross stacking three bags; two adjacent to each other; see figure 4 and column 3, lines 50-56. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include

the cross stacking pattern as taught by Kintgen et al. in the invention to Yougarlite et al. to securely transport the stacked bags.

Response to Arguments

12. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

The common knowledge modifications regarding packaging cellulose material, including chain, rope, or wire in a support structure for separating cross stacked bags, are taken to be admitted prior art because applicant failed to traverse the examiner's assertion of Official Notice in the previous Office Action.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JOHN SIPOS
PRIMARY EXAMINER

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